

June 29, 2022

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXASBY: _____ ad
DEPUTY**UNITED STATES DISTRICT COURT****WESTERN DISTRICT OF TEXAS - WACO DIVISION**

PROFESSOR MICHAEL STEVEN MOATES,
MA, QBA, LBA, LMHP, LCMHC
2700 COLORADO BOULEVARD APT 1526
DENTON, TEXAS 76210
MIKE@BEHAVIORMED.ORG

PLAINTIFF

VS.

JOSEPH R. BIDEN JR.
PRESIDENT OF THE UNITED STATES
950 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20530-0001

STATE OF GEORGIA
40 CAPITOL SQUARE, SW
ATLANTA, GA 30334

STATE OF LOUISIANA
1885 N. THIRD STREET
BATON ROUGE, LA 70802

STATE OF MISSOURI
P.O. BOX 899
JEFFERSON CITY, MO 65102

STATE OF NORTH CAROLINA
P.O. BOX 629
RALEIGH, NC 27602

STATE OF OKLAHOMA
313 NE 21ST STREET
OKLAHOMA CITY, OK 73105

STATE OF TEXAS
300 W. 15TH STREET, 7TH FLOOR
AUSTIN, TX 78701

STATE OF VIRGINIA
202 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219

CASE NO. 6:22-cv-00626

JURY TRIAL DEMANDED

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WILLIAM BOURLAND, INDIVIDUALLY
7117 FORESTVIEW DR
ARLINGTON, TX 76016

STATE OF WYOMING
109 STATE CAPITOL
CHEYENNE, WY 82002

TEXAS DEPARTMENT OF LICENSING AND
REGULATION
920 Colorado
Austin, Texas 78701

MICHAEL ARISMELENDEZ, INDIVIDUALLY
920 Colorado
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KATIE BRICE, INDIVIDUALLY
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MARIEL FERNANDEZ, INDIVIDUALLY
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FORT WORTH, TX 76102

CAROL SLOAN, INDIVIDUALLY
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SUITE 100
THE WOODLANDS, TX 77380

LAURIE SNYDER, INDIVIDUALLY
PO BOX 92123
SOUTHLAKE, TEXAS 76092

STEPHANIE SOKOLOSKY, INDIVIDUALLY
PO BOX 532228
HARLINGEN, TX 78553

OBJECTION TO THE REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

1. This OBJECTION to the Report and Recommendation by the Magistrate Judge is submitted to the Court pursuant to 28 U.S.C. § 636(b)(1)(C), Fed. R. Civ. P. 72(b)(2), and Rules 1(f) and 4(b) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas, Local Rules.
2. The Magistrate Judge's Report and Recommendation are flawed due to the following:
 - a. The Court must consider whether paying filing fees and court costs will cause undue financial hardship. *Prows v. Kastner*, 842 F.2d 138, 140 (5th Cir. 1988). The argument here is whether the undue financial hardship is on the Plaintiff not whether it compares to the federal poverty levels. Obviously, depending on the circumstances or where someone lives, can affect their needs for funds. Furthermore, the circumstances that lead to the undue hardship should be considered.
 - b. In this case, the Plaintiff simply does not have the funds and mostly due to the actions of the government (Defendants in this case). For example, Defendants State of Texas and State of Oklahoma have cost the Plaintiff 100's of dollars due to application fees and since they did not grant his license, they have impeded his ability to earn a living wage.
 - c. As the Magistrate Judge quotes "The Court must review the litigant's financial resources as well as expenses and whether those expenses are discretionary or mandatory." None of the expenses by the Plaintiff are discretionary and the Plaintiff has been caused an undue hardship based on Defendants taking his money but refusing his ability to earn a living.
 - d. The Plaintiff has had to pay Defendants more than \$635 in licensing fees and has no way to recover that at the moment as they refuse to give him a license to practice. Plaintiff is being stretched thin by the government and

1 does not have the resources to pay the filing fee. Furthermore, the Plaintiff
2 is concerned he would not qualify for a loan.

3 e. As the Magistrate stated, "parties may wish to file objections to this Report
4 and Recommendation. Parties filing objections must specifically identify
5 those findings or recommendations to which they object. The District Court
6 need not consider frivolous, conclusive, or general objections." See *Battle*
7 *v. U.S. Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987).

8 f. Being honest with the court, the Plaintiff cannot pay the fee and he wishes
9 to save the appellate court time and this court time. He feels his civil rights
10 were violated and that the government is acting in bad faith and
11 respectfully asks the court to overturn the recommendation of the
12 magistrate.

13 g. In addition, should the Plaintiff be required to appeal, according to
14 *Johnson v United States* (1957) the appellate court would be required to
15 assign the Plaintiff an attorney to "assist petitioner in prosecuting his
16 application for leave to appeal in forma pauperis." At minimum, the appeal
17 would be covered as "The only statutory requirement for the allowance of
18 an indigent's appeal is the applicant's "good faith." 28 U.S. C. § 1915. In
19 the absence of some evident improper motive, the applicant's good faith is
20 established by the presentation of any issue that is not plainly frivolous.
21 *Farley v. United States*, 354 U.S. 521." See: *Ellis v United States* (1958).
22 There is no bad faith here.

23 h. In enacting the federal in forma pauperis statute, Congress "intended to
24 guarantee that no citizen shall be denied an opportunity to commence,
prosecute, or defend an action, civil or criminal, in any court of the United
States, solely because . . . poverty makes it impossible . . . to pay or
secure the costs" of litigation. *Adkins v. E. I. DuPont de Nemours & Co.*,
335 U.S. 331, 342 (1948)

Thank you for your consideration.

VERY RESPECTFULLY,

/S/ PROF. MICHAEL MOATES, MA, QBA, LBA, LP- MASTER

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